

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO. 905 of 2005

Between:

M/s. South India Prime Tannery Pvt. Limited, 1-4-307, Bakaram, Musheerabad
Hyderabad-500 020, rep. by its Managing Director Mr.H.Mohd Ali.

..... PETITIONER

AND

1. The Assistant Commercial Tax Officer, Intelligence Wing, Office of the Deputy Commissioner (CT), Kattamanchi, Chittoor District.
2. The Commercial Tax Officer Gandhi Nagar, Hyerabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the action of the 1st respondent in detaining the goods carried in lorry bearing No.TN 23 U4444 by the detention order dt.18.1.2005 and issuing the confiscation notice dated 20-1-2005 as without jurisdiction and without authority of law and contrary to the provisions of the Act and set aside the same and further direct the 1st respondent to release the lorry No.TN 23 U 4444 along with goods and documents forthwith and pass such other order or orders.

Counsel for the Petitioner:MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondent Nos.1 and 2: GP FOR COMMERCIAL TAXES.

The Court at the admission stage made the following Order: (per the Hon'ble Mr.Justice M.H.S.ANSARI)

What is questioned in the instant writ petition is confiscation notice dated 20.01.2005 issued by the first respondent herein.

Though several contentions have been raised assailing the same, we are of the view that as questions of fact arise for consideration, it would not be appropriate for this Court in exercise of its jurisdiction under Article 226 of the Constitution of India to deal with the same. Accordingly, we are not inclined to go into the merits of the contentions raised. It shall be open to the petitioner to raise all such contentions of fact and law as may be open to it before the first respondent in reply to the show cause notice.

It is represented that as this writ petition was filed questioning the impugned confiscation notice, the petitioner could not submit his reply within the time specified. As we have not gone into the merits of the contentions questioning the impugned confiscation notice, we are inclined to grant a further time of two weeks from date hereof to the petitioner to submit his reply to the impugned confiscation notice and it is directed that if the reply is submitted within the period so stipulated, first respondent shall take the same on record and dispose of the matter in accordance with law.

As regards interim custody of the goods in question is concerned, we notice that in the impugned confiscation notice, first respondent has recorded that the goods are semi-perishable in nature and offered to release the same upon the petitioner furnishing security in the form of bank guarantee or any other acceptable form of surety for Rs.11,50,000/-.

Keeping in view the said observation in the impugned confiscation notice, we are inclined to direct the release of the said goods with vehicle to the petitioner subject to the condition that petitioner deposits 50% of the aforesaid sum of Rs.11,50,000/-. Upon payment of such sum by the petitioner to the first respondent, it is directed that the goods shall be released to the petitioner and vehicle shall also be released. It shall be open to the respondent authorities to recover the balance amount in accordance with law after the proceedings are disposed of and in terms of the orders

that may be passed therein.

The petition, accordingly, stands disposed of. No order as to costs.

_____ M.H.S. ANSARI,J

01.02.2005

T.CH.SURYA RAO, J

Note:Furnish copy on priority basis

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To

1. The Assistant Commercial Tax Officer, Intelligence Wing, Office of the Deputy Commissioner (CT), Kattamanchi, Chittoor District.
2. The Commercial Tax Officer Gandhi Nagar, Hyerabad.
3. Two CCs to G.P. for Commercial Taxes, High Court of A.P., Hyderabad (OUT).
4. Two CD copies.